MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2017/2018

UMY1612 – MALAYSIAN LEGAL SYSTEM I

(All Sections / Groups)

16th OCTOBER 2017
Reading Time : 2.30 p.m. – 2.45 p.m.
(15 Minutes)
Answering Time: 2.45 a.m. – 5.45 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of:
   i. Civil Law Act 1956 (Act 67); and
   ii. Federal Constitution

   Students are not allowed to lend or borrow statute(s) during the Examination.

5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

".... I mentioned that this country is a secular state. It means that it is not a Muslim state. Islam is the official religion of the country, but other religions have a right to play their part as far as religion is concerned. This is about it – but it is not absolutely a secular state because if it were so, there would be officially no religion. So it is the state which give freedom to all religions to carry out their worship. The Constitution has more or less set out the point."

-Tunku Abdul Rahman Putra , *The Role of Religion in Nation Building, in Contemporary 'Issues on Malaysian Religions*, 1984 at p. 25

In light of the above statement, critically discuss the position of Islam and Islamic Law in Malaysia.

(Total: 25 marks)

QUESTION 2

Article 160 of the Federal Constitution states the definition of law which includes 'the common law in so far as it is in operation in the Federation or any part thereof' that concerns the extent to which the English law is applicable in Malaysia. In the Section 3 of the Civil Law Act 1956 (Act 67) (Revised 1972) gives the meaning of the English law which means 'the common law of England and the rules of equity' and, in prescribed circumstances, English statutes.

With reference to relevant provisions and case law, discuss the applicability of English law in Malaysia.

(Total: 25 marks)

Continued...

QUESTION 3

In *Public Prosecutor v. Datuk Tan Cheng Swee & Anor* [1980] 2 MLJ 277; [1980] 1 LNS 58, Chang Min Tat J had occasion to restate the doctrine in words which are poignantly clear when he said:-

"..It is ... necessary to reaffirm the doctrine of stare decisis which the Federal Court accepts unreservedly and which it expects the High Court and other inferior courts in a common law system such as ours to follow similarly.."

In light of the above, with reference to other case law, discuss the application of *stare decisis* in its vertical operation in Malaysia.

(Total: 25 marks)

QUESTION 4

"...Just as literary critics need a working theory, or at least a style of interpretation, in order to construct the poem behind the text, so judges need something like a theory of legislation to do this for statutes. This may seem evident when the words in the statute book suffer from some semantic defect, when they are ambiguous or vague, for example. But a theory of legislation is also necessary when these words are, from the linguistic point of view, impeccable..."

- Ronald Dworkin, *Law's Empire* (HarperCollins, London, 1986), pp.15-23

By refering to the above statement, analyse the rules of statutory interpretation adopted in Malaysia.

(Total: 25 marks)

Continued...

QUESTION 5

Customs are another important source of unwritten law. Every race has its own customs. Hindu and Chinese customary law applied to the Hindus and Chinese respectively. Besides that, natives in Sabah and Sarawak have their own customary law which relates to the land and family matters.

With reference to relevant provisions and case law, explain the applicability of customary law in Malaysian Legal System.

(25 marks)

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